

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 05-07-03 Item. 3.c.

File Number
CP 03-014

Application Type
Conditional Use Permit

Council District
5

Planning Area
Alum Rock

Assessor's Parcel Number(s)
484-39-001

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Mike Mena

Location: Within a public utility right-of-way between Dobern Avenue and Capitol Expressway

Gross Acreage: 0.7

Net Acreage: 0.7

Net Density: N/A

Existing Zoning: R-1-8 Residence

Existing Use: PG& E Tower

Proposed Zoning: No change

Proposed Use: Install up to 6 four-foot tall panels on 3 wireless communications antenna on an existing PG&E utility line and a 240 square foot equipment shelter.

GENERAL PLAN

Completed by: Mike Mena

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: Mike Mena

North: Single-family detached residential

R-1-8 Residence

East: Single-family detached residential

R-1-8 Residence

South: Vacant/PG&E Utility Lines

A Agriculture

West: Two-Family Residential

R-1-2 Residence

ENVIRONMENTAL STATUS

Completed by: Mike Mena

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: Mike Mena

Annexation Title: Hillsdale No. 3

Date: November 23, 1956

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____
☐ _____

Approved by: _____
☒ Action
☐ Recommendation

APPLICANT

Jim Graham, Verizon Wireless
2785 Mitchell Drive
Walnut Creek, CA 94598

CONTACT

Ashraf Rageh, Cal Com Systems
2001 Omega Road, Suite 201
San Ramon, CA 94583

OWNER

Hans P. Hager
3695 El Grande Drive
San José, CA 95132

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Mike Mena

Department of Public Works

See attached.

Other Departments and Agencies

See attached.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Verizon Wireless, is requesting a Conditional Use Permit to allow the installation of up to six (6) four-foot tall wireless communication panels on 3 antennas for Verizon Wireless at a height of 60 feet on an existing 100-foot tall PG&E transmission tower, and the placement of a 240 square foot equipment shelter under the existing tower, on a 0.7 gross acre site. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas in the R-1 Residence Zoning District.

The project site is a flat parcel and is vacant except for the existing utility tower and a perimeter fence. It is bounded by adjacent single-family residential uses to the north and east, two-family duplexes to the west and vacant land to the south.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed project consists of the installation of three four-foot wireless communications antennas each with 2 panels on an existing PG&E lattice tower approximately 102 feet in height. The panel antennas will be mounted at a height of 60'-6". Each antenna panel measure approximately 4 feet x 6 inches and is 2 inches thick. A 20-foot x 11 foot equipment shelter, 12 feet tall with a pitched shingled roof, located adjacent to the existing tower, will contain associated equipment.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act. The Environmental Quality Act Section 15301 Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features,

involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that when developed in accordance with the City's Policy for Wireless Communications Antenna (analysis below), wireless antenna may be considered compatible with residential uses. Wireless communication antenna may be allowed with a Conditional Use Permit in R-1 Residential zoning districts, which conform to the designation.

There is currently a pending General Plan Amendment (GP03-05-03) on the subject site to change the Land Use/Transportation Diagram from Medium Low Density Residential (8 DU/AC) to Public Park/Open Space in order to facilitate the future development of a bicycle/pedestrian trail from Ocala to the Capitol Expressway. The proposed bicycle/pedestrian trail has been identified as a high priority improvement item in the East Valley/680 Strong Neighborhood Initiative Improvement Plan, adopted by the City Council on December 4, 2001. The Capital Action Plan in the City's Greenprint includes a goal of "developing trails on PG&E land in the Goss area", and identifies a cost of \$200,000 to implement this action in the period from 2005-2010. The herein-proposed use on the subject site would be consistent with the pending General Plan amendment aforementioned in that the wireless antenna mounted on an existing utility structure will not interfere with the recreational use of the corridor.

As discussed during a previous approval for a wireless communication antenna and associate equipment enclosures within the subject corridor, staff has recommended that PG&E and the property owner(s) agree to work with the City to allow for a future a pedestrian and bicycle trail across the property in a location mutually agreeable to the City and the property owner(s). Therefore, staff continues to encourage this effort as part of the subject project.

ANALYSIS

The primary issue analyzed is conformance to Council Policy 6-20, Land Use Policy for Wireless Communications Antennas, which provides criteria for siting such facilities including land use compatibility, setbacks from residential uses, screening and parking requirements. The proposed project conforms with the overall guidelines within this Policy as well as the Draft Update to the Policy (attached).

The proposed project would co-locate three wireless communication antennae with 2 panels each on an existing PG&E tower and construct a new 240 square foot equipment enclosure in a residential area. In review of this and similar projects in the relative area, staff has concluded that the co-location of wireless communication antenna on existing PG&E utility structure is preferable to the construction of new monopole/structures which would generally be a visible intrusion in residential areas. Therefore, co-locating new wireless communication antenna on existing PG&E utility structures typically provides the best opportunity for the placement of antennas in residential areas.

Current Policy requires a 50-foot setback from residential uses. A staff proposed update to this Policy is scheduled for City Council review later this month. The proposed update would provide for reduced setback in cases where the co-location of wireless antenna are placed on existing PG&E towers due to the fact that these towers are generally located in relatively-narrow PG&E corridors and are located within 50

feet from residential property lines. A Conditional Use Permit was recently approved to allow the installation of wireless antennas on a nearby tower in the same corridor with a setback of 12 feet. The fact that the antenna would be located at a height of approximately 60 feet on an existing 102 foot PG&E tower that support overhead service lines would not significantly add to visual impacts created by the existing tower and overhead service lines.

The Council Policy requires building and structure-mounted antennas to be located, so as to minimize visual impacts and to be architecturally integrated into the host structure. The Policy also requires ancillary equipment to be screened. Although visible, the new antennas will be painted to match the existing color of the utility tower and therefore, will not significantly add to the visual impacts created by the existing tower and overhead service lines on the site.

The project will also provide amenities to offset the potential visual impacts associated with the proposed equipment enclosure. The on-site equipment will be enclosed within a equipment structure which has been modified from its original design to be more compatible with the adjacent residential uses by adding a pitched composite shingled roof. The equipment shelter will be located within a 6-foot high wrought iron fenced and incorporate planting shrubs along the perimeter. The proposed fence will increase security of the equipment located within the structure and provide a deterrent for potential graffiti on the face of the structure, which fronts on Capitol Expressway.

For the reasons stated above, staff concludes that the subject site is appropriate for the co-location of wireless communication antenna and an associated equipment enclosure with a Conditional Use Permit to ensure that the project conforms to City requirements and is compatible with the surrounding neighborhood.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties within 500 feet of the project site. Planning staff received no public comments in regards to the proposed project.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review.
4. The project proposes the installation of three wireless communication antennae with 2 panels each on a PG&E tower and placement of associated equipment cabinet in a fenced enclosure. The tower is located in a PG&E right-of-way. The PG&E tower is located a minimum of 50 feet horizontally from adjacent single-family detached residences and 15-feet from multi-family uses.

5. The top of the wireless communication antennae will be located at a height not to exceed 60 feet – 6 inches on a PG&E tower, which is approximately 102 feet in height.
6. One coaxial cable routed down the tower to underground conduit, will connect the antennae to the new equipment cabinets located in a fenced enclosure adjacent to the tower.
7. The antennae will be painted to match the existing structure to minimize the visual impacts created by existing utility poles and overhead service lines on the site.
8. The project does not reduce the existing on-site parking.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy and Draft Policy for Wireless Communication Facilities.
5. The proposed project appropriately locates wireless communication antennae in an existing PG&E corridor for high-tension lines.
6. The proposed project contains adequate setbacks from single-family residential uses.
7. The proposed project will not eliminate parking.

Finally, based upon the above-stated findings and subject to the condition set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Verizon Wireless, HWY 680/San Antonio", dated April 16, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24)
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** This permit allows no on-site lighting.
5. **HVAC Units.** This permit allows up to two (2) CommAir 38 Series HDC-060 Condenser Cooling units on the subject site to be located within the associated 240 square foot equipment shelter.

6. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
7. **Landscaping Mitigation.** Four street trees shall be planted along the street frontage (Capitol Expressway) within the public right-of way to the satisfaction of the Director of Streets and Traffic. A permit for planting the trees shall be obtained from the Department of Streets and Traffic, (408) 277-4373. The applicant shall also plant oleander shrubs on two sides of the perimeter of the equipment enclosure. The shrubs shall be permanently maintained.
8. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
9. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
10. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
11. **Public Works Clearance.** An Elevation Certificate for the proposed equipment shelter, based on construction drawings, is required prior to the issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction, is required prior to final building inspection.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 03-014 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
13. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
14. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
15. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
16. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
17. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

18. **Gates.** Each locked gate on the site shall have an approved device with unlocking capability.
19. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
20. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
21. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of PSC antennas for other providers. Future collocation that does not increase the height of the utility structure may be permitted through a permit adjustment at the discretion of the Planning Director.
22. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
23. **Pedestrian and Bicycle Trail.** The applicant and PG&E shall facilitate discussions with the property owner to provide rights for a public pedestrian/bicycle trail and related improvements, and shall cooperate with the City, as necessary, in consenting to the construction of such improvements.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

c: Building Division
Applicant and property owner

Attachments

207-10/MJM